

RESOLUTION NO. R061515C

RESOLUTION RELEASING PROMISSORY NOTE & REAL ESTATE MORTGAGE

WHEREAS, on January 26, 2006, Center Ice Development, L.L.C. (“CID”) executed the Promissory Note attached hereto and incorporated herein as Exhibit A evidencing a promise to pay the Town of Fishers, which transitioned to the City of Fishers (“City”) on January 1, 2015, pursuant to Ind. Code § 36-4-1.5 *et. seq.*, One Hundred Seventy Five Thousand Eight Hundred Three and 25/100 Dollars (\$175,803.25) together with interest in the amount of seven percent (7.0%) per annum on February 26, 2016 (“Note”);

WHEREAS, CID contemporaneously executed the Real Estate Mortgage attached hereto and incorporated herein as Exhibit B (“Mortgage”) securing an interest in real property and improvements generally located at 9022 E. 126th Street, Fishers, Indiana (“Property”);

WHEREAS, substantial capital investments are needed to improve the ice arena located on the Property (“Ice Arena”) and ensure that it continues to be available for use;

WHEREAS, multiple potential purchasers have approached CID about purchasing and refurbishing the Property; however, because CID must satisfy the Mortgage and Note from the proceeds of any sale, CID has declined multiple purchase offers during the last few years;

WHEREAS, Indiana Ice Arenas, LLC, an Indiana limited liability company associated with the Indy Fuel (“IIA”) has advised CID that it desires to purchase the Property;

WHEREAS, specifically, IIA has advised the City that it will purchase the property and make a substantial capital investment in the Property, together totaling \$3.5 Million Dollars, if the City will release the mortgage and forgives the Note;

WHEREAS, if the City forgives the Note and releases the Mortgage, IIA has stated that it will improve the Property in a manner similar to the budget estimates outlined in Exhibit C attached hereto and incorporated herein;

WHEREAS, IIA recently presented the renderings attached hereto and incorporated herein as Exhibit D to the City depicting some of its anticipated, potential improvements to the Property;

WHEREAS, under the IIA’s ownership, the Ice Arena will continue to be used by the public and local hockey teams, and over time, IIA anticipates that the Ice Arena will additionally serve as a practice facility for the Indy Fuel;

WHEREAS, the City desires to forgive the Note and Mortgage if IIA (a) purchases the Ice Arena; and (b) invests not less than \$1.65 Million Dollars to improve and restore the Ice Arena by or before July 1, 2016 in a manner similar to the budget attached hereto and incorporated herein as Exhibit C; and

WHEREAS, pursuant to the Agreement to Repay attached hereto and incorporated herein as Exhibit E (“Agreement”), if IIA does not meet the IIA Commitment, IIA shall repay the City pursuant to the terms of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fishers, Hamilton County, Indiana meeting in regular session as follows:

Section 1. The Release Of Real Estate Mortgage attached hereto and incorporated herein as Exhibit F (“Release”) is approved.

Section 2. The Release Of Promissory Note attached hereto and incorporated herein as Exhibit G (“Note Release”) is approved.

Section 3. The Agreement to Repay attached hereto and incorporated herein as Exhibit E is approved.

Section 4. The Mayor is hereby authorized to execute the Release, Note Release, Agreement to Repay and any other ancillary or related documents to achieve the objectives outlined in this Resolution.

Section 5. The Mortgage Release and Note Release shall be recorded in the Office of the Hamilton County, Indiana Recorder on the date of insured closing (except recordation of the deed and other related documents) or thereafter and immediately prior to recording the deed transferring ownership of the Property from CID to IIA;

Section 6. This Resolution shall be shall be (a) null and void if the sale of the Property to IIA does not occur and (b) ineffective unless closing (except recordation of the deed and other related document) is complete.

Section 7. This Resolution shall be in full force and effect upon passage.

ALL OF WHICH IS RESOLVED by the City Council of the City of Fishers, Hamilton County, Indiana, this ____ day of June, 2015.

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

YAY

NAY

	C. Pete Peterson, President	
	John Weingart, Vice- President	
	Stuart Easley, Member	
	David George, Member	
	Eric Moeller, Member	
	Selina M. Stoller, Member	
	Richard W. Block, Member	
	Cecilia C. Coble, Member	
	Todd P. Zimmerman, Member	

I hereby certify that the foregoing Resolution was delivered to City of Fishers Mayor Scott Fadness on the _____ day of _____ 2015, at _____ m.

ATTEST: _____
Jennifer Kehl, City Clerk

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This instrument prepared by: Christopher P. Greisl, City Attorney, City of Fishers, Hamilton County, Indiana, 1 Municipal Drive, Fishers, Indiana, 46038.